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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,025	10/19/2000	Carlo Neri	GL-21 (GL-00-5)	5441

40256 7590 06/16/2004

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EXAMINER

ANTHONY, JOSEPH DAVID

ART UNIT PAPER NUMBER

1714

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/692,025

Applicant(s)

NERI ET AL.

Examiner

Joseph D. Anthony

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-14 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) 15-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-14 and 18-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

FINAL REJECTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-6, 8-14 and 18-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's amendment to claim 1 inserting the limitation of "said mixtures being devoid of said organic polymers" is deemed to be new matter. Applicant's assertion that the specification on page 3, lines 11-21, enables such as limitation is not accepted by the examiner. The said specification section is silent on the presence of a polymer. This silence is not to be expanded to positively exclude such polymers.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-6, 8-14, and 18-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Needham U.S. Patent Number 5,455,288 or Roth U.S. Patent Number 5,173,116 or Gang et al. U.S. Patent Number 5,888,254 or EP 0 514 784 A1 or Schneider et al. U.S. Patent Number 4,604,100 or Satou et al. U.S. Patent Number 5,017,195 or Nebashi et al. U.S. Patent Number 4,999,138 or Deubel et al. U.S. Patent Number 4,729,796 or Yamauchi et al. U.S. Patent Number 5,437,688.

Needham teaches dustless color concentrates granules that comprise a dye/pigment and a stabilizer. Applicants' claims are anticipated over Example 1.

Roth teaches preparation of readily dispersible pigment granules. Applicant's claims are anticipated over Example 2.

Gang et al teach leuco vat-dye preparations in granular form. Applicant's claims are deemed to be anticipated over the examples

EP teaches a process for granulating additives for organic polymers. Applicant's claims are anticipated over Example 6 wherein a granule is taught that comprises zinc oxide (a white pigment) and an antioxidant.

Schneider et al teaches a process for the preparation of granular dye formulations from polyethylene glycol melt. Applicant's claims are anticipated over Examples 1-5 which teach granules that comprise polyethylene glycol (a known stabilizer) and an azo type dye pigment.

Satou et al teach non-dustable granular dye particles coated with hydroxypropyl cellulose or carbohydrate. Applicant's claims are anticipated over Examples 1 and 6 which teach forming granules that comprise an azo type dye and sodium alginate. Applicant's claims are also anticipated over Examples 2 and 4 which teach forming granules that comprise an azo type dye and polyvinyl alcohol.

Nebashi et al teaches high-density granular concentrated detergent compositions. Applicant's claims are anticipated over the granular compositions as set forth in all of the examples of Table 1.

Deubel et al teach a process for the preparing pigment granules from aqueous suspension of pigment and alkaline solution of resin. Applicant's claims are anticipated over all the examples that comprise a pigment and an antioxidant, such as Example 1 etc.

Yamauchi et al teach granular reactive dye compositions and method of making thereof. Applicant's claims are anticipated over all the examples.

Response to Arguments

5. Applicant's arguments filed 03/29/04 have been fully considered but are not persuasive to put the application in condition for allowance for the reasons set forth above. Additional examiner comments are found next. It must be clearly pointed out to applicant that the newly added claim I limitation of: "said mixtures being devoid of said organic polymers" does NOT exclude all polymers or polymeric binders from the scope

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of claim 1. The said claim limitation only excludes that the claimed mixture excludes a polymer that is the same species as that which the mixture additive is to be added to. As such, if the stabilizer is to be added to polyethylene, the mixture additive encompasses additives that comprise a polypropylene polymer. As such applicants' arguments that their claimed invention excludes the polymers of the applied prior-art reference is clearly false. Furthermore, many of the components claimed in applicant's dependent claims read on polymers, such as the fillers and reinforcing agents of claim 2 and the lubricants, emulsifying agent, and rheological additives of claim 5. Finally applicant's claim 1 does not require that any melting either in part or in whole is actually occurring since the claim only requires the extrusion temperature is "capable of" enabling this melting, not that it actually occurs. As such applicant's arguments that the applied prior-art references may not disclosure actual melting of the lowest melting component is deemed to be moot.

Conclusion

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

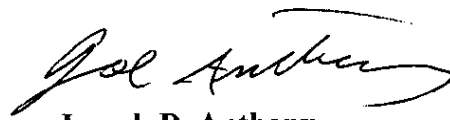
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Examiner Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Joseph D. Anthony whose telephone number is (571) 272-1117. This examiner can normally be reached on Monday through Thursday from 8:00 a.m. to 6:30 p.m. in the eastern time zone. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (571) 272-1119. The centralized FAX machine number is (703) 872-9306. All other papers received by FAX will be treated as Official communications and cannot be immediately handled by the Examiner.



Joseph D. Anthony
Primary Patent Examiner
Art Unit 1714

6/14/04